

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

Eric Cowley and Gillian Cowley, husband and wife,

Plaintiffs,

vs.  
Cabela's Outdoor Adventures, Inc., a Nebraska Corporation; Fred "Sky" Roberts; and Eric Pawlak,

Defendants.

No.

COMPLAINT and JURY DEMAND

Plaintiffs allege as follows:

1. PARTIES:

1.1 PLAINTIFFS, Eric Cowley (hereinafter referred to as Cowley) and Gillian Cowley, husband and wife, are residents of King County, Washington.

1.2 DEFENDANT, Cabela's Outdoor Adventures, Inc. (hereinafter referred to as Cabela), is a corporation, duly registered and licensed in Nebraska, and is conducting business in the State of Washington.

1.3 DEFENDANT, Fred "Sky" Roberts (hereinafter referred to as Roberts), at all material times was a resident of Kodiak Island County, Alaska, acting individually and as an agent/employee of Cabela.

1.4 DEFENDANT, Erik Pawlak (hereinafter referred to as Pawlak), at all material times was a resident of Sidney County, Nebraska, acting individually and as an

1 agent/employee of Cabela, and at all times Pawlak referred to himself as  
2 "Cabela's Hunting Consultant".

3. JURISDICTION AND VENUE: The subject matter hereof and the parties  
4 hereto, being residents of the State of Washington or doing business in Washington State, or  
5 based on diversity of citizenship, are subject to the jurisdiction of the above-entitled Court; and  
6 venue is proper, and the amount in controversy exceeds \$75,000.

7. 3. LIABILITY FACTS PERTAINING TO MISREPRESENTATION, FRAUD,

8. NEGLIGENCE:

9. 3.1 Plaintiff Cowley purchased a "Lodge Day-Pack Hunt" trip from Cabela;  
10. said purchase occurred in Washington state, and was based on the sales and marketing  
11. representations by Cabela that the trip was a "Lodge Day-Pack Hunt".

12. 3.2 The representations by Cabela were communicated by phone and email  
13. to Cowley in Washington through Pawlak, who at all material times acted individually or as an  
14. agent/employee/representative of Cabela.

15. 3.3 Plaintiff Cowley justifiably relied on the representations made by  
16. Pawlak/Cabela in the transaction and signed a Waiver pertaining to the "Lodge Day-Pack Hunt";  
17. which Waiver was intended to limit Cabela liability and provide for any disputes to be subject to  
18. the laws of the State of Nebraska.

19. 3.4 Many weeks after the initial transaction and before departure Cowley  
20. learned that the subject trip was not a "Lodge Day-Pack Hunt", but in fact was a "Mountain Goat  
21. Hunting Trip"; no Waiver was signed for the changed circumstances and the altered character of  
22. the trip and altered agreement.

23. 3.5 Over the next days, Cowley was repeatedly reassured that the trip was  
24. something that he could safely complete, with purchase of adequate equipment and clothing

1 from Cabela itself, and reassured that the trip would be managed by qualified and skilled  
2 professionals under the guidance and direction of Cabela's chosen "Outfitter", Defendant  
3 Roberts.

4           3.6     The trip began on September 25, 2010, and over the course of the next 4  
5 days Eric Cowley, along with a second customer, Jeremiah "Jed" Candreva, was exposed to  
6 hazardous and injurious conditions.  
7

8           3.7     Based on the foregoing, Plaintiffs allege that the subject Waiver is invalid  
9 due to misrepresentation and fraud, and further allege that Defendants' actions were negligent  
10 and Defendants were not competent and that the representations and actions of the Defendants  
11 were reckless and intentionally misleading, and Defendants were indifferent to the risks and  
12 hazards to which Cowley was exposed.

13       4.       PLAINTIFFS' DAMAGES:   As a direct, immediate and proximate result of said  
14 negligence, Plaintiffs sustained severe personal injuries, continuing temporary disabilities,  
15 probable permanent disabilities and loss of consortium, all to Plaintiffs' actual and continuing  
16 harms and losses in an amount to be proven at trial.  
17

18       5.       RELIEF REQUESTED:   Wherefore, Plaintiffs pray for judgment against  
19 Defendants, jointly and severally, as follows:

- 20           5.1     For an amount commensurate with Plaintiffs' injuries to be determined at  
21                          the time of trial;  
22           5.2     For punitive damages;  
23           5.3     For Plaintiffs' costs and disbursements herein;  
24           5.4     For Plaintiffs' pre-judgment interest on all liquidated amounts;  
25           5.5     For Plaintiffs' attorney's fees;  
26           5.6     For such other and further relief as the Court deems just and equitable.  
27

6. **JURY DEMAND:** Plaintiff demands a trial by jury of all claims asserted in this Complaint.

Dated this 22<sup>nd</sup> day of September, 2011.

s/ Jerald D. Pearson

Jerald D. Pearson

WSBA #8970

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Complaint  
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